

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILFRED Z. HASTINGS
JACK HASTINGS

Claim No. CU -8667

Decision No. CU -6280

Under the International Claims Settlement
Act of 1949, as amended

FINAL DECISION

The Commission issued its Proposed Decision in this matter on July 28, 1971, finding that each owned a one-quarter interest in certain properties and certifying a loss to each in the amount of \$30,750.00.

Claimants have now established that each is single and that their losses therefore were not subject to the community property law of Cuba.

Claimants' losses on January 28, 1970 are now summarized as follows:

	<u>WILFRED Z. HASTINGS</u>	<u>JACK HASTINGS</u>
Calle 258, Marianao	\$26,500	\$26,500
Personalty	2,000	2,000
Calle 122, Marianao	<u>33,000</u>	<u>33,000</u>
	\$61,500	\$61,500

Accordingly the Certifications of Loss in the Proposed Decision are set aside, the following Certifications of Loss will be entered, and in all other respects the Proposed Decision as amended herein is affirmed.

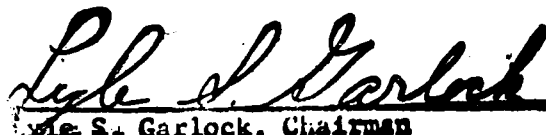
CERTIFICATIONS OF LOSS

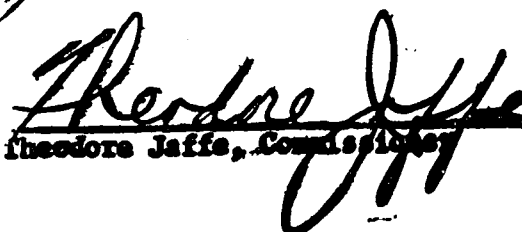
The Commission certifies that WILFRED Z. HASTINGS suffered a loss, as result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixty-One Thousand Five Hundred Dollars (\$61,500.00) with interest thereon at 6% per annum from January 28, 1970 to the date of settlement; and

The Commission certifies that JACK HASTINGS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixty-One Thousand Five Hundred Dollars (\$61,500.00) with interest thereon at 6% per annum from January 28, 1970 to the date of settlement.

Dated at Washington, D.C.
and entered as the Final
Decision of the Commission

SEP 8 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILFRED Z. HASTINGS
JACK HASTINGS

Claim No. CU -8667

Decision No. CU - 25280

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$125,515.00, was presented by WILFRED Z. HASTINGS and JACK HASTINGS based on the loss of certain real and personal property in Cuba. Claimants have been nationals of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been

nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The following losses are asserted:

(1) Residence at Calle 258, Marianao	\$ 53,000.00
(2) Personalty at Calle 258,	6,515.00
(3) 3-floor building, Calle 122, Marianao	<u>66,000.00</u>
Total	\$ 125,515.00

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except for property inherited or that acquired by gift. Claimants have not shown that the properties herein were not subject to the community property law. Accordingly, any interests of the spouses in the property subject of this claim will be considered although not certified as losses.

The evidence of record consists of a report from abroad with accompanying documents and affidavits of claimants. Based on the entire record, the Commission finds that claimants WILFRED Z. HASTINGS and JACK HASTINGS were each the owner of a 1/4 interest in certain real and personal property in Cuba, hereinafter more fully described.

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. The record reflects that claimants left Cuba on January 28, 1970.

The Commission finds, in the absence of evidence to the contrary, that the subject real and personal property was taken by the Government of Cuba on January 28, 1970, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Although the claim arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission

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has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Calle 258, Marianao, Havana

The property consisted of 3,020.24 square meters of land improved with a one-story brick residence with front portal, patio, five bedrooms, three baths, and a two-car garage. The report from abroad recites its value as \$53,000.00. The property was used as claimants' residence.

Based upon the description of this property and the Commission's knowledge of comparable property in Havana, the Commission finds that at the time of loss the asserted value to be the most appropriate. The Commission concludes that each claimant sustained a loss in the amount of \$13,250.00 for his 1/4 interest therein.

Personalty in Calle 258

With respect to the personalty in the property, claimants have asserted a value for the furniture and fixtures representing their estimated replacement value, totaling \$6,515.00. The Commission, however, has held

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that replacement values refer to replacement in kind. It appears from the record that the average date of acquisition of this personalty was at least 1960, thus having an age of 10 years at the time of loss. The Commission has determined that apart from antiques not subject to depreciation, furniture and appliances must be depreciated at a rate of 5 per cent per annum; and furnishings including drapes, lamps, clothing, must be depreciated at 10 per cent per year. Accordingly, the Commission finds that the personalty at Calle 258 had a value of \$4,000.00 on the date of loss, and that each claimant thereby suffered a loss of \$1,000.00 within the meaning of Title V of the Act.

Calle 122, Marianao, Havana

The land comprised 494.03 square meters of land improved with a three-story building with commercial and rental areas. The deed recites the property was acquired in 1959 and reports its value as \$66,000.00.

Based on the description of the property and evidence available to the Commission as to the value of similar properties, the Commission finds that at the time of loss this property had a value of \$66,000.00, and each claimant sustained a loss in the amount of \$16,500.00.

In summary, the Commission concludes that each claimant sustained a loss in the total amount of \$30,750.00 representing his 1/4 interest in all three aforementioned properties.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

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CERTIFICATIONS OF LOSS

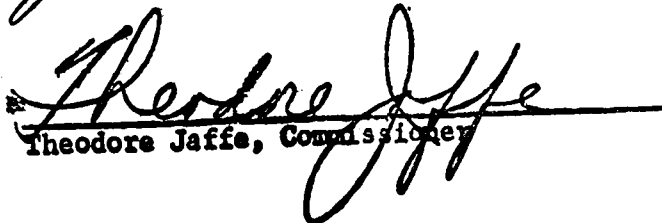
The Commission certifies that WILFRED Z. HASTINGS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty Thousand Seven Hundred Fifty Dollars (\$30,750.00) with interest thereon at 6% per annum from January 28, 1970 to the date of settlement; and

The Commission certifies that JACK HASTINGS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty Thousand Seven Hundred Fifty Dollars (\$30,750.00) with interest thereon at 6% per annum from January 28, 1970 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission.

JUL 28 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 1.5(e) and (g), as amended, (1970).)

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